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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/593,550	06/14/2000	Brian W. Ables	24764A	7906

22889 7590 10/24/2002

OWENS CORNING  
2790 COLUMBUS ROAD  
GRANVILLE, OH 43023

EXAMINER

GRAY, JILL M

ART UNIT	PAPER NUMBER
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1774

DATE MAILED: 10/24/2002

10

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/593,550

Applicant(s)

ABLES ET AL

Examiner

Jill M Gray

Art Unit

1774

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 07 August 2002.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-31 is/are pending in the application.
- 4a) Of the above claim(s) 1-16 and 19-21 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 17, 18 and 22-31 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Response to Amendment***

The rejection of claims 17-18 and 22-31 under 35 U.S.C. 102(b) as being anticipated by Charter et al, 4,117,067, is withdrawn in view of applicants arguments.

### ***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

2. Claims 17-18, 22-23 are rejected under 35 U.S.C. 102(b) as being anticipated by Yamada et al, 4,427,482 (Yamada) or Pollet et al, 5,024,890 (Pollet) or Dunbar 4,898,770.

Yamada, Pollet and Dunbar each teach string binders and preforms and molded articles formed therefrom, as required from claims 17-18 and 22-23. See Yamada, abstract, Pollet, column 3, line 52-column 4, line 21, and Dunbar, abstract. Applicants' claims are product-by-process claims. Even though the product-by-process claims are limited by and defined by the process, determination of patentability is based on the product itself. If the product in the product-by-process claims are the same as or obvious from a product of the prior art, the claim is unpatentable even though the prior art was made by a different process. In the instant case, the claimed string binder, preform and molded article are the same as the prior art products of Yamada, Pollet and Dunbar. Accordingly, it is the position of the examiner that the invention as claimed in claims 17-18 and 22-23 are anticipated by the teachings in the prior art.

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3. Claims 17-18 and 22-25 are rejected under 35 U.S.C. 102(b) as being anticipated by Woodside 5,972,503.

Woodside teaches a string binder, preform, and composite molded article formed therefrom, as required by claims 17-18 and 22-23, said composite molded article having a matrix material of the type contemplated by applicants in claims 24-25. In addition, Woodside teaches that his roving comprises reinforcing fibers and string binders as set forth by claims 26 and 29, and that the rovings can be chopped into pellets, as required by claims 27 and 30, wherein the chopped pellets have a length within the range set forth by applicants in claims 28 and 31. See abstract, column 4, lines 45-64, column 6, lines 29-43 and 60-63, column 7, lines 19-22, column 8, lines 59-64, and column 34, line 65 through column 35, line 5. Claims 26 and 29 rely in part on product-by-process limitations. As set forth previously, the patentability of a product does not depend on its method of production, particularly if the prior art product is the same or obvious over the instant claimed product. It is the examiner's position that the instant claimed product of claims 17-18 and 22-31 is the same as the prior art product taught by Woodside. Accordingly, the invention as claimed in claims 17-18 and 22-31 is anticipated by the prior art teachings of Woodside.

### ***Response to Arguments***

4. Applicant's arguments with respect to claims 17-18 and 22-31 have been considered but are moot in view of the new ground(s) of rejection.

No claims are allowed.

### ***Conclusion***

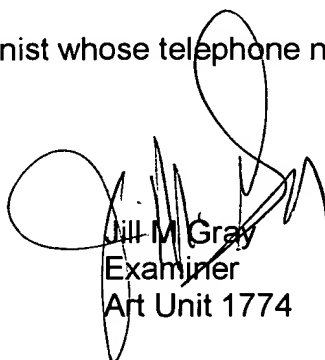
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5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jill M Gray whose telephone number is 703.308.2381. The examiner can normally be reached on 8:30-6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Cynthia Kelly can be reached on 703.308.0449. The fax phone numbers for the organization where this application or proceeding is assigned are 703.305.5408 for regular communications and 703.305.3599 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703.308.0651.



Jill M Gray  
Examiner  
Art Unit 1774

jmg  
October 20, 2002